THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.21046 OF 2005

DATED:27.9.2005

Between:

Smt.B. Hanumayamma

…Petitioner

And

The Commissioner, Gaddiannaram Municipality

Gaddiannaram, Ranga Reddy District

…Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.21046 OF 2005

ORDER:

The petitioner is resident of Gaddiannaram Municipality. She obtained permission dt.29.9.2003 for construction of ground plus two floors in her plot No.2 in S.Nos.66 and 99 of Kamalanagar. She constructed the said building. It appears, when the officials of the respondent threatened to demolish the ground floor constructed on the ground of deviation from the sanctioned plan, petitioner filed Writ Petition No.17518 of 2005 before this Court, which was dismissed for default. Be that as it is, on 10.8.2005 the Commissioner of the respondent Municipality issued a notice, which reads as under.

N O T I C E

Sub: Gaddiannaram Municipality – Town Planning – Unauthorised Construction of R.C.C.Shop and pent house made by Smt.Hanumayamma H.No.18-59 at Kamala Nagar – Notice Issued.

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Smt. Hanumayamma has constructed the R.C.C.Building on plot No.2 lies in Sy.Nos.66 and 99 of Gaddiannaram (V) against to the sanctioned plan. She has constructed one shop in the ground floor and pent house on second floor which is against to the rules. The flat owners of Krishna Priya Nilayam Nagar have requesting to this office to take action on unauthorized construction of shop in the ground floor and pent house on second floor.

In compliance with the above request, it is proposed to take action on the illegal construction of shop and pent house bearing H.No.18-59 at Kamala Nagar. Therefore, you are hereby informed to vacate the premises within (3) days failing which this office is not responsible for any damages.

When there was threat of demolition, petitioner filed the present Writ Petition again seeking a declaration that the action of the respondent in issuing impugned notice is illegal and arbitrary.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent - Municipality.

A reading of the impugned notice would show that the respondent did not follow the procedure contemplated under sub-section (1) of Section 228 of the A.P. Municipalities Act, 1965 (for short, the Act). Therefore, the learned Standing Counsel submits that the impugned notice may be treated as provisional order under sub-section (1) of Section 228 of the Act.

Accordingly, petitioner is given liberty to file her objections to the impugned notice within a period of one week from the date of receipt of a copy this order to the respondent. The respondent shall then consider the objections/representation of the petitioner before issuing any confirmatory orders under sub-section (3) of Section 228 of the Act, if necessary. Till then, the respondent shall not interfere with petitioner's possession nor cause any damage to the building.

The Writ Petition with the above observations and directions is disposed of. No costs.

(V.V.S.RAO, J)

27.9.2005

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Note: Operation portion of the order may

be communicated by WIRE at party's cost.

(B.O)

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